

**STATE OF ILLINOIS
COUNTY OF SANGAMON**

**BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS**

Illinois State Board of Elections
Complainant

v.

13 MA 057
ID # 25124

Show You Care Kane for the Developmentally Disabled
Respondent

**MOTION TO WAIVE, OR IN THE ALTERNATIVE,
REDUCE CIVIL PENALTY ASSESSMENT**

NOW COMES Respondent, Show You Care Kane for the Developmentally Disabled, and in response to the Report of Hearing Officer, and as and for its Motion to Waive, or in the Alternative, Reduce Civil Penalty Assessment, states as follows:

1. Association for Individual Development (hereinafter "AID"), through Show You Care Kane, provides services for over five thousand clients throughout Kane County with developmental, physical and/or mental disabilities. AID is non-profit organization, with the State of Illinois as its primary source of funding.
2. In October, 2012, AID began working to add a referendum to an upcoming Kane County ballot, to support a tax levy to aid individuals with disabilities. At that time, due to its status as a non-profit organization, AID did not believe that it was required to file any reports with the State Board of Elections (hereinafter "the Board") in connection with this referendum (See June 7, 2013, letter prepared by Show You Care Kane Chairperson, Lynn O'Shea, attached hereto as Exhibit "A").

3. However, in February, 2013, AID was advised by counsel that it may be required to file election expense reports with the Board. Pursuant to this advice, AID contacted the Board to determine whether any such filing was required. (Exhibit "A"). AID was then advised by an employee of the Board that it should "file and see what happens." (Exhibit "A").
4. Pursuant to the advice of the Board employee, AID initially filed its December 2012, Quarterly Report of Campaign Contributions and Expenditures in February, 2013. (Exhibit "A"). However, on March 13, 2013, AID received notification that there was an error on the December report, and, that as such, an amendment would need to be filed by April 26, 2013. AID complied with this request, and filed the amended report on April 22, 2013. (Exhibit "A"). In addition, AID filed its March 2013 Quarterly Report on April 22, 2013, five days after the deadline for the same.
5. On June 3, 2013, Show You Care Kane was provided by the Board with Notice of an assessment of fines, in the total amount of \$2,150.00, for its untimely filing of the December, 2012, and March, 2013, reports. (See June 3, 2013, Notice, attached hereto as Exhibit "B").
6. On June 7, 2013, Lynn O'Shea, Chairperson for Show You Care Kane, requested that the Board waive its fine, and provided the Board with a Request for Hearing, and Waiver of Appearance. (Exhibit "A").
7. Thereafter, on August 8, 2013, Ms. O'Shea received a Notice of the August 20, 2013, hearing regarding the pending appeal of the civil assessment. The Notice included the Report of Hearing Officer, Tom Newman. (See August 8, 2013, Notice, with Mr. Newman's report, attached hereto as Exhibit "C").

8. Pursuant to Illinois law, every political committee must file quarterly reports of campaign contributions, expenditures, and independent expenditures, and such reports must be filed by the 15th day of the month following each period. 10 ILCS 5/9-10(b). When considering the amount of the fine to be imposed for a violation of this requirement, “the Board shall consider whether the violation was committed inadvertently, negligently, knowingly, or intentionally and any past violations of this Section.” *Id.* Moreover, for negligent or inadvertent violations, the Board may waive the fine. 10 ILCS 5/9-10(c).
9. In this case, AID’s untimely filing of the Quarterly Reports was inadvertent and/or negligent. AID did not intentionally, nor willfully, disregard the filing requirements of the Election Code. Rather, based on its status as a non-profit organization, as well as the advice of an Election Board staff member, AID believed, in good faith, that it was not required to file the reports with the Board. Once AID was advised by counsel that such filing requirements may apply, it undertook to file the reports, even though the deadline for filing had passed.
10. Further, this is the first filing violation committed by AID. Pursuant to 10 ILCS 5/9-10, the Board must consider this factor when determining the amount of fine to impose.
11. As such, AID respectfully requests that the Board waive the civil penalty assessed by the Board, in the amount of \$2,150.00.
12. In the alternative, should the Board decline to waive the civil penalty in the amount of \$2,150.00, then AID respectfully requests that this fine be reduced, as a first-time violation of the Election Code’s filing requirements.

WHEREFORE, Respondent, Show You Care Kane for the Developmentally Disabled,
respectfully requests this Board waive the civil penalty assessment, or in the alternative, reduce
the amount of the fine.

Show You Care Kane for the Developmentally Disabled

By: _____

Lynn O'Shea, Chairperson

Show You Care Kane

Pro Se

By: Lynn O'Shea, Chairperson

309 W. New Indian Trail Ct.

Aurora, Illinois 60506

EXHIBIT A



Association for Individual Development

Finding ability in disability since 1961

Main Office
309 W. New Indian Trail Ct.
Aurora, Illinois 60506-2494
Phone: 630-966-4000
Fax: 630-844-2065
TDD: 630-844-5063
www.the-association.org

June 7, 2013

State Board of Elections
2329 S MacArthur Blvd.
Springfield, Illinois 60601

Re: Show You Care Kane ID# 25124

Dear Ms Steward-

I received your letter dated June 3, 2013 regarding delinquent filing of our December and March Quarterly Report of Campaign Contribution and Expenditures. We began this effort in October 2012 to add a referendum to the next ballot in Kane County to support a tax levy to aid people with disabilities. We are a non profit organization in Kane County and are fully funding this effort, due the fact that we are a non profit and not raising any funds for this effort we were told by a consultant we did not need to file with the State Board of Elections. However, in February 2013 we were instructed by an attorney we did need to file with the State Board of Elections. We placed several phone calls to the offices of the State Board of Elections to try and clarify if we did need to file and finally received a response to file and see what happens.

We filed the form D-1 during the month of February, but received a statement on March 13, 2013 notifying us of an error on our Form D-1 and we would need to file an amendment by April 26, 2013, this amendment was filed before the deadline. We have been faced with conflicting information since the start of this effort, but we have tried to be proactive on filing once we were told filing was potentially required for an organization such as ours. AID provides services for 5,100 clients throughout Kane County with developmental, physical and/or mental disabilities and our primary funding is through the State of Illinois. We respectfully request a waiver on these fines as in our best knowledge we were not required to file, but once we did receive information to the contrary we did file diligently.

Thank you for your time and consideration,

Lynn O'Shea
Chairman-Show You Care Kane
President-Association for Individual Development

Case Management • Respite • Home Based Support • Community Integration & Employment • Residential Services • Behavioral Health & Crisis Intervention • Children's Services



A United Way funded agency

Children & Therapy
309 W. New Indian Trail Ct.
Aurora, IL 60506
Phone: 630-898-1981
Fax: 630-808-9838

Behavioral Health & Crisis
1230 N. Highland Ave.
Aurora, IL 60506
Phone: 630-859-1291
Fax: 630-859-2994

Kessler Center & Pool
409 W. New Indian Trail Ct.
Aurora, IL 60506
Phone: 630-859-1144
Fax: 630-859-1229

Elgin Area Services
1135 Bowes Rd.
Elgin, IL 60123
Phone: 847-931-6200
Fax: 847-888-6079

Yorkville Area Services
135 E. Van Emmon St.
Yorkville, IL 60550
Phone: 630-988-4450
Fax: 630-882-8409

Thompson Center
309 W. New Indian Trail Ct.
Aurora, IL 60506
Phone: 630-844-6040
Fax: 630-844-9011

State of Illinois)
)
 County of _____)

BEFORE THE STATE BOARD OF ELECTIONS
 OF THE STATE OF ILLINOIS

IN THE MATTER OF;)

ILLINOIS STATE BOARD OF ELECTIONS,)

Complainant)

Vs.)

Case No. _____)

Respondent(s).)

REQUEST FOR HEARING

I, Lynn O'Shea, the Chairman
 (Name) (Chairman/Treasurer)
Show You Care Kane
 (Name of Committee)

Committee, appeals on behalf of the said committee the assessment of civil penalty proposed in this matter and submits in support of that appeal the accompanying affidavit. The said committee requests a hearing at which it will appear to offer reasons and defenses why the proposed assessment should not be imposed.

Lynn O'Shea
 (Signature of Chairman/Treasurer)

Does the committee plan to obtain legal representation?
 Attorney's contact information, if known:

☐ Yes

☒ No

Name

Phone

Email

Address

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

EXECUTIVE DIRECTOR

Rupert T. Borgsmiller

June 3, 2013

EXHIBIT B

2329 S MacArthur Blvd.
Springfield, Illinois 62704
217/782-4141
Fax: 217/782-5959

James R. Thompson Center
100 West Randolph, Suite 14-100
Chicago Illinois 60601
312/814-6440
Fax: 312/814-6485

BOARD MEMBERS
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Jesse R. Smart, Vice Chairman
Harold D. Byers
Betty J. Coffrin
Ernest L. Gowen
Judith C. Rice
Bryan A. Schneider
Charles W. Scholz

Show You Care Kane for the Developmentally Disabled ID# 25124
1135 Bowes Rd
Elgin, IL 60123-5541

Dear Show You Care Kane:

As you have been previously notified, this committee failed to file the following document during the requisite filing period:

Report Type:	December Quarterly Report of Campaign Contributions and Expenditures
Report Period:	October 1, 2012 through December 31, 2012
Filing Period:	January 2, 2013 through January 15, 2013

Based upon this committee's failure to comply with the provision of 10 ILCS 5/9-10(b) of the Election Code, it has been assessed a civil penalty for each day this report remained unfiled. According to Board records, this report was received by the Board on April 22, 2013, 66 day(s) late. As such, this committee has been assessed a fine of \$1650.

In addition, this committee failed to file the following documents during the requisite filing period:

Report Type:	March Quarterly Report of Campaign Contribution and Expenditures
Report Period:	January 1, 2013 through March 31, 2013
Filing Period:	April 2, 2013 through April 15, 2013

Based upon this committee's failure to comply with the provision of 10 ILCS 5-9-10 of the Election Code, it has been assessed a civil penalty for each day this report remained unfiled. According to Board records, this report was received on April 22, 2103, 5 day(s) late. As such, this committee has been assessed a fine of \$500.

The total for all new assessments is \$2150.

Enclosed, please find Section 125.425 *Civil Penalty Assessments* and the forms with which you may appeal the assessed fine if you believe the civil penalty has been assessed in error. **Notice of Appeal must be filed within 30 days of the date of this assessment notice. If you fail to file a Notice of Appeal by July 3, you forfeit the right to contest this assessment.**

If you do not appeal this assessment, you must pay your fine within 30 days of the Final Board Order. However, you may also elect to pay the fine at this time. You may mail or deliver payments to the State Board of Elections, Attn: Campaign Disclosure, 2329 S MacArthur Blvd., Springfield, IL 62704. You may also pay by American Express, MasterCard, or Discover.

If you have questions regarding the appeal process, please call Jennifer Ronimus at 217-782-1543.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon Steward".

Sharon Steward, Director, Campaign Disclosure Division

SS: jr

Enclosure(s): appeal packet

State of Illinois)
County of _____)


BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS

IN THE MATTER OF;)
ILLINOIS STATE BOARD OF ELECTIONS,)
Complainant)
Vs.) Case No. _____)
Respondent(s).)

WAIVER OF APPEARANCE

I, Lynn O'Shea, the Chairman of the
(Name) (Chairman/Treasurer)
Shaw You Care Kane
(Name of Committee)

Committee, appeals on behalf of the said committee the assessment of civil penalty proposed in this matter and submits in support of that appeal the accompanying affidavit. The said committee waives personal appearance before the State Board of Elections for hearing on this appeal and agrees that the State Board of Elections may enter its order with respect to this appeal in the absence of a representative of the committee.


(Signature of Chairman/Treasurer)

OVER

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

EXHIBIT C

2329 S MacArthur Blvd.
PO Box 4187
Springfield, Illinois 62704
217/782-4141
Fax: 217/782-5959

James R. Thompson Center
100 West Randolph, Suite 14-100
Chicago Illinois 60601
312/814-6440
Fax: 312/814-6435



EXECUTIVE DIRECTOR
Rupert T. Borgsmiller
August 8, 2013

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Charles W. Scholz, Vice Chairman
Betty J. Coffrin
Harold D. Byers
Ernest C. Gowen
William M. McGuffage
Bryan A. Schneider
Casandra B. Watson

RECEIVED AUG 12 2013

Show You Care Kane for the Developmentally Disabled
Lynn O'Shea
309 W New Indian Trail Ct
Aurora, IL 60506

ID# 25124

NOTICE TO POLITICAL COMMITTEE

Dear Political Committee Officer/Representative,

Please be advised that your pending appeal of a civil penalty assessment will be presented to the Board at its August 2013 meeting. Attached for your review is a copy of the Hearing Officer's recommendation in the matter. You are welcome to attend the meeting to answer any questions the Board may have, however your presence is not mandatory. **Please be aware that the enclosed recommendation is the Hearing Officer's opinion only, and may not necessarily be the final decision by the Board.**

The meeting will begin at 10:30 AM on Tuesday, August 20, 2013 and will be held in the James R Thompson Center, 100 W Randolph, Suite 9-040, Chicago IL. You may also attend the meeting via Video Conference at our Springfield office, located at 2329 S MacArthur Blvd., Springfield IL. Any Motions regarding this matter must be made in writing and received by the General Counsel no later than four (4) days before the date of the meeting. If you have any further questions please feel free to contact our office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sharon Steward".

Sharon Steward, Director
Division of Campaign Disclosure

SS: sk

STATE OF ILLINOIS
COUNTY OF SANGAMON

BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

Illinois State Board of Elections

Complainant

v.

13 MA 057

Show You Care Kane for the Developmentally Disabled

ID# 25124

Respondent

REPORT OF HEARING OFFICER

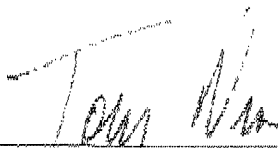
Appeal of Civil Penalty Assessment for Delinquent Filing of the
December 2012 and the March 2013 Quarterly Reports

The December 2012 Quarterly Report was received by the Board on April 22, 2013, 66 days late, resulting in a civil penalty assessment of \$1,650. The March 2013 Quarterly Report was received by the Board on April 22, 2013, 5 days late, resulting in a civil penalty assessment of \$500. The total assessment is \$2,150.

Lynn O'Shea, the Treasurer of the Committee, filed a Waiver of Appearance, and submitted on the Appeal Affidavit the following:

On the Affidavit, Ms. O'Shea states the non-profit organization, Association for Individual Development, created the Committee in October 2012 to seek a referendum on the ballot in Kane County. At the time, she says a consultant told the group that since the non-profit was fully funding the effort and no outside funds were to be raised, no filings were required with the State Board of Elections. In February, she says an attorney advised them to file a Statement of Organization. Ms. O'Shea says the group placed several phone calls to Board staff to clarify if they needed to file and finally received a response to "file and see what happens". The D-1 was filed in February. Ms. O'Shea asks for a waiver of the fine, because she says to the Committee's best knowledge they were not required to file, but once they received information to the contrary they did file diligently.

Section 9-1.8(e) of the Campaign Disclosure Act is clear that a Ballot Initiative Committee must file once it exceeds \$3,000 in receipts or expenditures in support of or opposition to a question of public policy to be submitted to the electors. The \$3,000 threshold applies to any part of the process to have the question placed on the ballot. Based on the reports filed by the Committee, it appears clear this threshold was exceeded in the 4th Quarter of 2012. I additionally find it hard to accept that any Board staff member, given complete information by the Committee, would have advised the group to "file and see what happens." Ms. O'Shea also fails to explain why, after filing the Statement of Organization in February, the Committee did not file the December Quarterly Report until late April. This does not seem to be a diligent effort to meet the filing requirements. Therefore, I recommend the appeal be denied for both quarterly reports. If this recommendation is accepted by the Board, the \$2,150 civil penalty will be due and owing. (As of 6/30/13, this Committee reported a funds available balance of \$0.)


Tom Newman - Hearing Officer
July 25, 2013

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

2329 S MacArthur Blvd.
PO Box 4187
Springfield, Illinois 62704
217/782-4141
Fax: 217/782-5959

James R. Thompson Center
100 W. Randolph Street, Ste 14-100
Chicago Illinois 60601
312/814-6440
Fax: 312/814-6485



EXECUTIVE DIRECTOR
Rupert T. Borgsmiller

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Charles W. Scholz, Vice Chairman
Harold D. Byers
Betty J. Coffrin
Ernest C. Gowen
William M. McGuffage
Bryan A. Schneider
Casandra B. Watson

MEMORANDUM

TO: Chairman Smart, Vice Chairman Scholz, Members of the Board
Executive Director Rupert T. Borgsmiller

From: Steve Sandvoss, General Counsel

Re: Proposed Rules on Counting Provisional Ballots

Date: August 15, 2013

On the following pages is a draft of proposed Rules that would implement changes to Section 18A-15 of the Election Code, which establishes new procedures for counting provisional ballots that are cast in a precinct, other than the precinct in which the voter is registered. These rules are required to be in place prior to the Primary Election next March. In addition, a recent communication from JCARE has advised State agencies to have any proposed Rulemaking completed through the process in the next three months, as they are anticipating a very large rulemaking effort to implement the provisions of the Affordable Care Act (aka: ObamaCare). Unless the Board has significant concerns or other issues with this proposal, I respectfully request Board approval as soon as practicable.

Respectfully Submitted,

Steven S. Sandvoss, General Counsel

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 218
COUNTING OF PROVISIONAL BALLOTS

AUTHORITY: Implementing Article 18A of the Election Code [10 ILCS 5/Art. 18A] and authorized by Section 18A-15 of the Election Code [10 ILCS 5/18A-15].

SOURCE: Adopted at _ Ill. Reg. _____, effective _____, 2013;

Section 218.10 General Provisions

This Part implements Section 18A-15 of the Election Code, setting forth procedures to be followed when counting provisional ballots that were voted and cast in a precinct within the County in which the provisional voter is registered but not the precinct in which the provisional voter is registered.

a) Definitions

“Statewide Office” means the Constitutional offices of Governor and Lt. Governor running jointly, Secretary of State, Attorney General, Comptroller and Treasurer.

“Federal Office” means the offices of President and Vice President of the United States, United States Senator, Representative in Congress, delegates and alternate delegates to the national nominating conventions and candidates for the Presidential Preference Primary.

“Countywide office” means the office of Clerk, Sheriff, State’s Attorney, Circuit Court Clerk, Recorder, Auditor, County Board Member or County Commissioner, Coroner, Regional Superintendent of Schools, Sanitary District Commissioners/Trustees, Assessor, Board of Review Members, and Treasurer. Some of the above offices are not elected offices in certain counties as they may be appointed offices or simply do not exist in the county.

“Citywide or villagewide office” means an office elected by the electors of an entire municipality.

“Township office” means an office elected by the electors of an entire township, including township committeeman in Cook County.

“Leading Established Political Party” means one of the two political parties whose candidates for governor at the most recent three gubernatorial elections received either the highest or second highest average number of votes. The first leading political party is the party whose candidate for governor received the highest average number of votes in the three most recent gubernatorial elections and the second leading political party is the party whose candidate for governor received the second highest average number of votes in the three most recent gubernatorial elections.

“Incorrect precinct” means a precinct within the boundaries of the County in which the voter is registered to vote, but is not the precinct containing the voter’s residence where he/she is registered to vote.

“Correct precinct” means the precinct in which the provisional voter is registered to vote.

“Voter” shall mean the person voting provisionally in the incorrect precinct.

“Election Authority” means either the County Clerk, County Board of Election Commissioners or Municipal Board of Election Commissioners.

b) Persons entitled to vote provisionally

A person claiming to be a registered voter is entitled to vote a provisional ballot under the following circumstances:

- 1) The person's name does not appear on the official list of eligible voters for the precinct in which the person seeks to vote however the person claims to be registered and eligible to vote.
- 2) The person's voting status has been successfully challenged by an election judge, a pollwatcher, or any legal voter however the person claims to be registered and eligible to vote.
- 3) A federal or State court order extends the time for closing the polls beyond the time period established by State law and the person votes during the extended time period.
- 4) The voter registered to vote by mail and is required by law to present identification when voting either in person or by absentee ballot, but fails to do so.
- 5) The voter's name appears on the list of voters who voted during the early voting period, but the voter claims not to have voted during the early voting period; or
- 6) The voter received an absentee ballot but did not return the absentee ballot to the election authority, and failed to surrender it to the election judges.

c) Procedures for voting provisionally in the polling place

Correct Precinct

If any of these six reasons exist for casting a provisional ballot, an election judge must accept any information provided by a person who casts a provisional ballot that the person believes supports his or her claim that he or she is a duly registered voter and qualified to vote in the election. However, if a person's residence address is outside the precinct boundaries, the election judge shall first inform the person of that fact, give the person the appropriate telephone number of the election authority in order to locate the polling place assigned to serve that address, and instruct the person to go to the proper polling place to vote.

Incorrect Precinct

The following procedures apply to provisional voters who are registered to vote, who were not informed of the fact that they attempted to vote in an incorrect precinct by the judges of election (or who were so informed but were unable to vote in their correct precinct), and who fall into category 1) or 2) above, since the voter, by voting in the incorrect precinct, would not have his/her name on the official list of eligible voters for that precinct, and if challenged, the challenge should be upheld by a majority of the election judges.

Once it has been determined by the election judges that the person is entitled to receive a provisional ballot based on either of the 2 categories referenced in the paragraph immediately above, and the voter has completed the provisional voter affidavit, the voter shall be given a provisional ballot and shall proceed to vote such ballot. Upon receipt of such ballot by the election judges, the ballot shall be transmitted to the election authority in accordance with Section 18A-10 of the Election Code.

Section 218.20 Counting Procedures for Provisional Ballots Cast in an Incorrect Precinct

If the election authority having jurisdiction over the voter determines that the voter has cast a provisional ballot in an incorrect precinct, such ballot shall still be counted using the following procedures. **NOTE:** procedures for counting provisional ballots cast in an incorrect precinct located within the voter's county of registration but within a different election authority's jurisdiction are discussed in Section 218.30 below.

- a) The Election Authority shall first determine whether the voter was entitled to cast a provisional ballot. Such voter is entitled to cast a provisional ballot if:
 - 1) The affidavit executed by the voter contains, at a minimum, the provisional voter's first and last name, house number and street name, and signature or mark;
 - 2) The provisional voter is a registered voter based on information available to the county clerk or board of election commissioners provided by or obtained from either the provisional voter, an election judge, the statewide voter registration database maintained by the State Board of Elections, the records of the county clerk or board of election commissioners' database or the records of the Secretary of State and

- 3) The provisional voter did not vote by absentee ballot and did not vote during the period for early voting.

Once it has been determined by the Election Authority that the voter was entitled to vote a provisional ballot, albeit in an incorrect precinct, the election authority shall select a team (or teams) of 2 duly commissioned election judges, one from each of the two leading established political parties in Illinois (currently the Democratic Party and Republican Party) to count the votes that are eligible to be cast on such provisional ballot.

- b) Votes cast for Statewide offices, the Office of President of the United States, and United States Senate shall be counted regardless of the fact that the voter voted in an incorrect precinct.
- c) Votes cast for State Senate, State Representative, countywide, citywide and township offices shall be counted if it is determined by the election judges that the voter would have been entitled to vote for one or more of said offices had the voter voted the ballot style that he or she would have been given, had such voter voted in the precinct in which he or she is registered to vote (the "correct" precinct). Such determination shall be made by comparing a sample ballot issued by the election authority of the same style that the voter would have been entitled to vote had he/she voted in the correct precinct with the actual provisional ballot cast by the voter. If the same office (including the same district number if applicable, such as a Congressional or Legislative district, or county board district or city ward number, etc.) appears on both the ballot of the correct precinct and the provisional ballot cast by the voter in the incorrect precinct, votes for that office shall be counted. All votes cast for any remaining offices (offices for which the voter would not have been entitled to vote for had he/she voted in the correct precinct) shall not be counted. Once it has been determined which offices are to be counted, the election judges shall proceed to remake the voted ballot onto a ballot of the same style as that which the voter would have been entitled to vote had he/she voted in the correct precinct. No votes shall be counted for an office where the voter voted for more candidates for that office than he/she was allowed to cast.
- d) For provisional ballots cast at a partisan primary election, the judges shall use a sample ballot from the correct precinct for the same political party as the ballot chosen by the voter.

Section 218.30 Counting Procedures for Provisional Ballots Cast in a Different Election Authority Jurisdiction

- a) Incorrect precinct is located in the same county as the county where the voter is registered

If a voter cast a provisional ballot in an incorrect precinct located in an election authority's jurisdiction other than the election authority having jurisdiction over the voter's correct precinct, but where such precinct is still within the same county as the two election authorities (Example; a voter is registered in the City of Chicago, but casts a provisional ballot in suburban Cook County), the election authority in whose territory such provisional ballot was cast shall, after receipt of the provisional ballot, transmit such ballot along with the provisional voter's affidavit and any other documentation provided to the election judges, to the office of the election authority having jurisdiction over the voter's correct precinct, within 2 business days of the election at which such ballot was cast. If the location of the election authorities' offices is such that it is feasible to hand deliver such ballot from the election authority having jurisdiction over the incorrect precinct to the election authority having jurisdiction over the correct precinct, then the ballot shall be transmitted in that manner by two election judges; one from each of the two leading political parties. If the location of the two election authorities is such that it is not feasible to hand deliver the ballot, then the election authority having jurisdiction over the incorrect precinct shall cause the ballot to be transmitted via express mail within 2 business days of the election at which such ballot was cast, with a delivery date to the election authority having jurisdiction over the correct precinct no later than the second business day following the mailing date. Upon receipt of such ballot by the election authority having jurisdiction over the correct precinct, the election authority shall proceed to remake and count the votes on the provisional ballot in accordance with the procedures described in Section 218.20 above, including the determination of eligibility to cast a provisional ballot. Any information provided to the election authority within the 7 day period provided for in Section 18A-15, shall be transmitted to the to the office of the election authority

having jurisdiction over the voter's correct precinct, within 1 business day in the same manner of transmitting the provisional ballot and accompanying documentation.

- b) Incorrect precinct is located in a different county from the county where the voter is registered, but is located in the same municipality as the one in which the voter is registered.

If a voter casts a provisional ballot in an incorrect precinct that is located in a different county from the one in which the voter is registered, but where such incorrect precinct is located in the same municipality as the one in which the voter is registered, the election authority having jurisdiction over the incorrect precinct shall cause the ballot, along with the provisional voter's affidavit and any other documentation provided to the election judges, to be transmitted via express mail within 2 business days of the election at which such ballot was cast, with a delivery date to the election authority having jurisdiction over the correct precinct no later than the second business day following the mailing date. Upon receipt of such ballot by the election authority having jurisdiction over the correct precinct, the election authority shall proceed to remake and count the votes on the provisional ballot in accordance with the procedures described in Section 218.20 above, including the determination of eligibility to cast a provisional ballot. Any information provided to the election authority within the 7 day period provided for in Section 18A-15, shall be transmitted to the office of the election authority having jurisdiction over the voter's correct precinct, within 1 business day in the same manner of transmitting the provisional ballot and accompanying documentation.

- c) If a voter casts a provisional ballot in a precinct outside of the county in which he or she is registered and outside of the municipality in which he or she is registered (if applicable), the ballot shall not be counted. It shall however be transmitted via the U.S. Postal Service to the election authority having jurisdiction over the voter's correct precinct within 14 days after the election and shall be kept for 2 months, the same length of time as is required of other voted ballots.

218.40 Follow-up procedures

- a) Once the provisional ballot has been remade in accordance with the procedures described above, the election authority having jurisdiction over the voter's correct precinct shall ensure that the voting history of such voter is marked to show that the voter voted in that election, and such ballot shall be recorded as having been cast in the voter's correct precinct for purposes of determining the total number of ballots and or votes cast in that precinct.
- b) The original provisional ballot cast by the voter shall be stored separately from other ballots voted in the election and shall be preserved in the same manner as original ballots that had to be remade for other reasons, such as a damaged ballot or as a result of a voter over-voting an office.
- c) The Election Authority in whose jurisdiction the provisional voter is registered to vote shall be responsible for complying with the transmittal requirements contained in Section 18A(d).

STATE BOARD OF ELECTIONS



From the desk of.... Kyle Thomas
Director of Voting and Registration Systems
Phone: 217-782-1590
Email: kthomas@elections.il.gov

To: Rupert T. Borgsmiller; Executive Director

Re: Request for Approval-DS 200 (New Equipment), M 100 and M 650 (Modifications)

Date: August 15, 2013

Election Systems and Software (ES&S) is requesting that our Board grant approval for a new piece of tabulation equipment, the DS 200, Firmware version 1.6.0.0 as well as, an upgrade to the firmware of the current system, the M 100, Firmware version 5.4.4.5, Auto-Mark, Firmware version 1.3.2907, and the M 650 with no Firmware change. The DS 200 is a digital scanning machine that can be used as an in-precinct tabulator, similar to the M 100. The most significant change to the M 100 is the ability to tabulate ballots for a greater number of precincts, both in Early Voting mode (up to 450 precincts) and Election Day mode (up to 18 precincts). The previous version of the M 100 only allowed 10 precincts in the Early Voting mode as well as 10 for Election Day. The DS 200 has no precinct limitation but is limited to 1,639 unique ballot styles. The M 650 set-up programming was modified to work in conjunction with both the new DS 200 and the upgraded M 100 (Please see Appendix A for further technical specifications as provided by ES&S). In addition to the above mentioned changes, the software used to program their election software (Unity) has also been upgraded to version 3.4.0.1. This modification will allow for the use of alternate candidate and office ID's, as needed for the export to send data to our Electronic Canvas. (Please see Brent Davis' attached e-mail)

The approval process for this equipment was very extensive and time consuming, starting with ballot review in November of 2012. This was followed by receipt of completed ballots in December of 2012. The marking began in January utilizing 10 temporary employees furnished by the vendor and was conducted using ink pens and the Auto-MARK marking device. In February, some of the ballots began being run however, pre-testing for the Consolidated Election cycle delayed the process. The vendor returned in late April and tabulation and ballot marking resumed with the process lasting into early July. The vendor returned the last week in July, to wrap up the final ballot runs.

For this test, staff simulated three separate elections with 100 precincts being run for each election. The General consisted of 107,752 ballots and the results were positive with no tabulation errors found. The Consolidated consisted of 47,200 ballots being cast and also showed no tabulation errors. The General

Primary, which was the last election conducted for this test, proved much more challenging for the vendor. It consisted of 96,769 ballots being cast, however several errors were encountered. Along with these errors, many limitations were also discovered. .

Nearly all of the errors encountered during the Primary test can be linked back to programming errors made by the vendor in the set-up and design of the election. However, we did encounter two issues which were not related to programming, but were, in my opinion, related to human error in individual machine set-up and maintenance. The first of which was, with the new software used on the M 100, we were made aware that it is paramount that the “jumper cables” used inside the machine, must be unhooked for this version, or the machine will be too sensitive, causing read errors. The other issue discovered was related to another M 100 not being properly maintained or cleaned throughout the process, which caused dirt and/or debris to enter the machine causing a misread. We recommend the machines be cleaned at a minimum after each election or after having tabulated 4000 ballots to avoid excess dirt which may affect the counting ability of the individual machine. We also discovered a log limitation with both the DS 200 and M 100, where if the individual machine has tabulated over 7,000 ballots, the log will become “full” and not allow the machine to print results. We recommend replacing the flash drive on each machine at or before the 7,000 ballot mark, to avoid this situation.

We also discovered that for any single precinct, the system is limited to 30 counters. A counter is necessary for the ballots cast results to be displayed for an individual precinct split. One of the largest mistakes made by the vendor, in relation to the set-up of this election, had to do with counters on the M 650. The vendor failed to place counters for each unique split, one across the entire jurisdiction and several in individual precincts. These mistakes prevented the ballots cast from being incremented for these splits and at first were hard to identify. After further review of the canvas, we found that the EL45 report became very useful in finding splits that may have run without having their ballots cast counted. After several discussions with the vendor, it is our recommendation that after each election, a jurisdiction using the M 650, should review their EL45 reports in summary and by precinct, and reconcile them against the splits for which they intend to have counters in place. This will help to insure that all splits are included in the ballots cast appropriately.

Following the review of the results from the Primary, various options were considered in order to move forward. It was decided that the vendor should provide us new ballots for five precincts, and that those five precincts would be completely redone. New programming was provided along with their equipment, and the Primary was started from scratch for those five precincts. Staff ran 13,235 ballots through for this partial test and the results came out as expected with no programming errors. We did run into one printing error, which involved the vendor providing us with a style that does not exist in this test, but that was quickly remedied and did not affect the total outcome.

In regards to use of the new DS 200, staff recommends that the supplemental ballot boxes not be used because it layers the ballots in sequential

order as they fall into the box, consistently. Also, staff recommends that the diverter within their ballot box designed to segregate write-in ballots from the other ballots not be used as it makes a distinct sound, revealing when a voter has cast a ballot that contains a write-in. Staff also recommends that the DS 200 be positioned in such a manner that a voter may feed their ballot into the machine, without others being able to see the messages on the screen. This is necessary as the screen is large enough that the warning messages displayed to the voter in such instances as casting a ballot that contains an over-vote, would easily be read by those other than the voter, degrading the privacy.

With the above noted recommendations, staff requests an interim Board approval as requested by ES&S. We feel that the additional precinct capacity on the M 100, as included in this approval, is a feature that has long been awaited by jurisdictions with greater than 10 precincts, who use the M 100 as provided by ES&S currently.

ES&S system

Appendix A

System Overview:

The system is designed to run on the Microsoft “XP” platform,

ES&S Unity 3.4.0.1 is comprised of the AutoMARK Voter Assist Terminal version 1.3.2907 (AutoMARK), Model 100 Precinct Scanner version 5.4.4.5 (M100), DS200 Precinct Digital Scanner version 1.6.0.0 (DS200), Model 650 high-speed Central Count Scanner version 2.2.0.0 (M650), Audit Manager (AM), Election Data Manager (EDM) and ES&S Ballot Image Manager (ESSIM), AutoMARK Information Management System (AIMS), Hardware Program Manager (HPM), Election Reporting Manager (ERM), Log Monitor Service, and VAT Previewer.

- AutoMARK Voter Assist Terminal enables voters who are visually or physically impaired and voters more comfortable reading or hearing instructions and choices in an alternative language to privately mark optical scan ballots. The AutoMARK supports navigation through touchscreen, physical keypad or ADA support peripheral such as a sip and puff device or two position switch.
- The ES&S Model 100 is a precinct-based, voter-activated paper ballot tabulator. The system uses Intelligent Mark Recognition (IMR) visible light scanning technology to accurately detect completed ballot targets. The Model 100 accepts ballots inserted in any orientation – top first, face up; bottom first, face down; etc. Optical sensors simultaneously read both sides of the ballot, and accurately record voter selections, as the Counter passes the ballot to the integrated ballot box.
- DS200 digital scanner is a paper ballot tabulator designed for use as a polling place scanner. After the voter makes their selections on their paper ballot, their ballot is inserted into the unit for immediate tabulation. Both sides of the ballot are scanned at the same time using a high-resolution image-scanning device that produces ballot images.
- M650 high-speed central count scanner is programmed by jurisdiction officials for a specific election with an election definition from a Zip disk. M650 prints a continuous audit log to a dedicated audit log printer and can print results reports directly from the scanner to a second connected printer. The scanner saves results to a Zip disk that officials can use to format and print results from a PC running Election Reporting Manager.
- Audit Manager runs in the background of the other Unity programs and provides password security and a real-time audit log of all user inputs and system outputs. Election coders use Audit Manager to set Unity system passwords and track user activity.
- Election Data Manager (EDM) is used to enter the election definition. Typically, a master election database is created one time and contains all precincts, districts, and precinct and district relationships. This master file is then used to build each election-specific file to which election-specific contests can be manually added or merged from a previous election file.

- ES&S Ballot Image Manager (ESSIM) is a desktop publishing tool that allows users to design and print ES&S paper ballots. ESSIM uses ballot style information created by EDM to display the WYSIWYG ballots. Users can then apply typographic formatting (font, size, attributes, etc.) to individual components of the ballot. Text and graphic frames can also be added to the ballot.
- AutoMARK Management Information System (AIMS) is composed of a compatible PC computer and the AIMS application software that manages all of the information required by the AutoMARK Voter Assist Terminal (VAT) for an election. AIMS imports data configured in ESSIM to configure the audio and visual ballot presentation for the AutoMARK and to mark inserted ballots.
- Hardware Program Manager (HPM) enables the user to import, format, and convert the election file; define districts; specify election contests and candidates; create election definitions for ballot scanning equipment; burn PCMCIA Cards, Zip Disks, Compact Flash Cards or USB media device. The Hardware Programming Manager is primarily used for converting the election IFC file for use with the Election Reporting Manager and for creating and loading election parameters; however, it may also be used for coding the election.
- Election Reporting Manager (ERM) is ES&S election results reporting program. ERM generates paper and electronic reports for election workers, candidates, and the media. ERM can also display updated election totals on a monitor as ballot data is tabulated, and it can send results reports directly to media outlets.

From: Davis, Brent
Sent: Wednesday, August 14, 2013 10:06 AM
To: Thomas, Kyle
Subject: ES&S Unity Upgrade

As a follow-up from our discussion yesterday –

The certification that is being considered by the Board will determine whether or not an upgrade to the Unity tabulation system will be available to ES&S customers. This upgrade provides a new export which is important for the eCanvass system. The new export will allow them to program an “Alternate ID” into the file, which is the number that we need. It is important that we utilize the alternate ID, instead of the primary Office ID and Candidate ID fields so that our requirements don’t have an impact on election setup, ballot sequencing, etc. If the jurisdictions do not get this upgrade, they still have an option to get a separate module that can produce the export, however there is a fee for them to purchase this.

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STATE BOARD OF ELECTIONS
FY13 MONTHLY FISCAL REPORT
General Revenue Fund

AGENCY TOTALS <u>MONTH ENDING: July 31, 2013 (FY13)</u>	<u>FY13</u> <u>APPROPRIATION</u>	<u>YEAR TO DATE</u> <u>EXPENDITURE</u>	<u>OBLIGATED</u> <u>MONEY</u>	<u>BALANCE</u>	<u>% OF</u> <u>EXPENDITURE</u>
PERSONAL SERVICE	\$4,204,300.00	\$3,807,971.67	\$0.00	\$396,328.33	90.57%
STATE PAID RETIREMENT	\$168,200.00	\$149,233.58	\$0.00	\$18,966.42	88.72%
RETIREMENT (inc. supplemental)	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
SOCIAL SECURITY	\$321,200.00	\$282,035.90	\$0.00	\$39,164.10	87.81%
CONTRACTUAL SERVICE	\$1,072,400.00	\$743,060.03	\$36,682.32	\$292,657.65	69.29%
TRAVEL	\$125,900.00	\$78,977.14	\$0.00	\$46,922.86	62.73%
PRINTING	\$41,000.00	\$17,398.68	\$0.00	\$23,601.32	42.44%
COMMODITIES	\$39,600.00	\$21,643.94	\$0.00	\$17,956.06	54.66%
EQUIPMENT	\$138,600.00	\$130,949.38	\$0.00	\$7,650.62	94.48%
TELECOMMUNICATIONS	\$145,500.00	\$127,044.46	\$0.00	\$18,455.54	87.32%
OPERATION OF AUTO EQUIPMENT	\$4,900.00	\$2,433.83	\$0.00	\$2,466.17	49.67%
ELECTION CODE BOOKS	\$15,000.00	\$10,000.00	\$0.00	\$5,000.00	66.67%
IVRS LUMP SUM - OPERATIONS	\$461,300.00	\$320,890.89	\$0.00	\$140,409.11	69.56%
INTEREST PAYMENTS	\$2,800.00	\$2,643.58	\$0.00	\$156.42	0.00%
SUB-TOTAL (OPERATIONS)	\$6,740,700.00	\$5,694,283.08	\$36,682.32	\$1,009,734.60	84.48%
HAVA MAINTENANCE OF EFFORT	\$550,000.00	\$320,289.41	\$9,067.00	\$220,643.59	58.23%
CO CLERK & RECORDER STIPENDS	\$644,800.00	\$642,841.11	\$0.00	\$1,958.89	99.70%
SUPP APPROP - STIPENDS (802 FUND)	\$161,200.00	\$158,689.05	\$0.00	\$2,510.95	98.44%
ELECTION JUDGE REIMBURSEMENT	\$1,347,100.00	\$1,347,100.00	\$0.00	\$0.00	100.00%
ELECTION JUDGES/EARLY VOTING	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
IVRS LUMP SUM - GRANTS	\$1,119,100.00	\$1,109,588.10	\$0.00	\$9,511.90	99.15%
REDISTRICTING	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
ADDITIONAL STATE MATCH	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
VOTING SYSTEMS INTEGRITY CENTER	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
ELEC. CANVASSING IMPLEMENTATION	\$300,000.00	\$4,066.98	\$0.00	\$295,933.02	1.36%
IDIS SYSTEM REPLACEMENT	\$100,000.00	\$63,239.25	\$7,090.75	\$29,670.00	0.00%
SUPP. APPROP. - IVRS	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
SUPP. APPROP. - ELECTION DAY JUDGES					
SUB-TOTAL (GRANTS) (GRF ONLY)	\$4,061,000.00	\$3,487,124.85	\$16,157.75	\$557,717.40	85.87%
TOTAL APPROPRIATION (GRF ONLY)	\$10,801,700.00	\$9,181,407.93	\$52,840.07	\$1,567,452.00	85.00%